

REMARKS

Although the foregoing amendments are submitted after final rejection, the proffered revisions do not introduce impermissible new matter or raise an issue warranting further search. Moreover, the amendments place the application in condition for allowance, as explained below, or at least render the application in better condition for appeal. Entry of the amendments is respectfully requested, therefore.

I. Status of Claims

With this submission, no claims have been amended. Claims 1-120 are canceled, and claims 103-105 are newly added. Accordingly, upon entry of this paper claims 103-105 will be pending, with claims 103-105 under active consideration.

II. Rejections Withdrawn

Applicants acknowledge, with thanks, Examiner Lin's withdrawal of rejections under the first and second paragraphs of Section 112.

III. Claim Rejection- 35 U.S.C. §112, first paragraph- enablement

Claims 84-87 were rejected again for an alleged lack of enabling support in the specification. This rejection is mooted, however, by the present cancelation of these claims, without prejudice or disclaimer.

With respect to this rejection, the Office asserts that only the "WM-446 and WM-447 are identified as markers capable of identifying lung cancer by themselves (paragraph 0011)." Office action, page 3. Without acquiescing to the examiner's reading of the specification, applicants note that new claim 103 recites the lung cancer-associated biomarkers, enumerated in Tables 1 and 2, that are characterized by the presence of at least two and as many as six nodes. See published application at paragraphs 0058 - 0061.

Thus, the aforementioned assertions is inapposite to the present claims, which comport with the examiner's recommendation that "the claims reflect the particular set of biomarkers which may be used to qualify lung carcinoma status as taught in the specification" (Office Action, page 4). Applicants therefore request reconsideration and withdrawal of the rejection.

CONCLUSIONS

Applicants submit that this application is in condition for allowance, and they request an early indication to this effect. Examiner Lin is invited to contact the undersigned directly, should he feel that any issue warrants further consideration.

The Commissioner is hereby authorized to charge any additional fees, which may be required under 37 C.F.R. §§ 1.16-1.17, and to credit any overpayment to Deposit Account No. 19-0741. Should no proper payment accompany this response, then the Commissioner is authorized to charge the unpaid amount to the same deposit account. If any extension is needed for timely acceptance of submitted papers, applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorize payment of the relevant fee(s) from the deposit account.

Respectfully submitted,

By 

Date October 19, 2010

FOLEY & LARDNER LLP
Customer Number: 54077
Telephone: (202) 672-5404
Facsimile: (202) 672-5399

Stephen A. Bent
Attorney for Applicant
Registration No. 29,768